

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the matter of:)	
)	
Norwell Television, LLC)	
v.)	CSR-6002-M
Full Channel TV, Inc.)	
)	
Request for Carriage)	

MEMORANDUM OPINION AND ORDER

Adopted: February 4, 2003

Released: February 12, 2003

By the Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. Norwell Television, LLC, licensee of television broadcast station WWDP (Ch. 46), Norwell, Massachusetts ("WWDP") filed the above-captioned complaint against Full Channel TV, Inc. ("Full Channel") for its failure to carry WWDP on its cable system serving Barrington, Bristol Township, Warren and the unincorporated areas of Bristol County, Rhode Island. No opposition to this complaint has been received. For the reasons discussed, we grant the complaint.

II. DISCUSSION

2. Pursuant to Section 614 of the Communications Act and implementing rules adopted by the Commission in *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast and Signal Carriage Issues* ("Must Carry Order"), commercial television broadcast stations are entitled to assert mandatory carriage rights on cable systems located within the station's market.¹ A station's market for this purpose is its "designated market area," or DMA, as defined by Nielsen Media Research.²

3. In support of its petition, WWDP states that prior to the instant complaint it filed a petition for market modification seeking to include the subject communities. This petition, which was unopposed by Full Channel, was granted by the Media Bureau on August 13, 2002.³ WWDP states that on August 23, 2002, after the release of *Norwell Television*, it formally requested carriage on Full

¹8 FCC Rcd 2965, 2976-2977 (1993).

²Section 614(h)(1)(C) of the Communications Act, as amended by the Telecommunications Act of 1996, provides that a station's market shall be determined by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns. See 47 U.S.C. § 534(h)(1)(C). Section 76.55(e)(2) of the Commission's rules requires that a commercial television station's market be defined by Nielsen Media Research's DMAs. See *Definition of Markets for Purposes of the Cable Television Broadcast Signal Carriage Rules*, 14 FCC Rcd 8366 (1999) ("Modification Final Report and Order").

³See *Norwell Television, LLC*, 17 FCC Rcd 16085 (2002).

Channel's cable system.⁴ WWDP states that Full Channel did not respond in writing to this demand and, even after discussions with Full Channel's chief engineer, failed to schedule a date for WWDP to measure its signal or install receiving equipment.⁵ WWDP states that it filed the instant complaint within the sixty days required by the Commission's rules.⁶

4. WWDP argues that, due to the grant of its market modification petition, it is a "qualified local commercial television station" entitled to carriage in the subject communities.⁷ WWDP states that its carriage will not cause increased liability for Full Channel and it agrees to pay the cost of any reception equipment (including installation costs) to ensure the delivery of a good quality signal to Full Channel's principal headend.⁸ WWDP notes that Section 76.56(b)(2) of the Commission's rules requires that a cable system with more than 12 usable activated channels devote up to one-third of those channels to must carry stations.⁹ WWDP points out that Full Channel has 52 usable activated channel but currently carries only 12 of the 17 local full power television stations for which it is obligated.¹⁰ As a result, WWDP maintains that Full Channel is obligated to carry its signal and it requests the Commission to order Full Channel to begin carriage immediately.

5. We grant WWDP's complaint. We find that the unopposed representations made by WWDP demonstrate that it is a local full-power commercial television station qualified for carriage on Full Channel's system. Under the Commission's must carry rules, cable operators have the burden of showing that a commercial station that is located in the same television market as a cable operator is not entitled to carriage.¹¹ Although WWDP is located in the Boston, Massachusetts DMA and Full Channel's cable system located in the Providence, Rhode Island DMA, the Bureau's decision in *Norwell Television* granted WWDP must carry rights in the subject communities. Full Channel did not file an opposition challenging any of the assertions contained in WWDP's must carry complaint or oppose WWDP's petition for market modification. Consequently, we order Full Channel to carry WWDP's signal.

⁴Complaint at Exhibit II.

⁵*Id.* at 3.

⁶47 C.F.R. § 76.7(c)(5).

⁷Complaint at 5.

⁸*Id.*

⁹*See* 47 C.F.R. § 76.56(b)(2).

¹⁰Complaint at 6.

¹¹*See Must Carry Order*, 8 FCC Rcd at 2990.

III. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that the complaint filed by Norwell Television, LLC **IS GRANTED** pursuant to Section 614(d)(3) of the Communications Act of 1934, as amended.¹² Full Channel TV, Inc. **IS ORDERED** to commence carriage of WWDP on its cable system serving the communities of Barrington, Bristol Township, Warren and the unincorporated areas of Bristol County, Rhode Island, within sixty (60) days from the release date of this order.

7. **IT IS FURTHER ORDERED** that WWDP shall notify Full Channel in writing of its channel position election within thirty (30) days of the release date of this order, pursuant to Sections 76.57 and 76.64(f) of the Commission's rules.¹³

8. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules.¹⁴

FEDERAL COMMUNICATION COMMISSION

Steven A. Broeckaert
Deputy Chief, Policy Division
Media Bureau

¹²47 U.S.C. § 534.

¹³47 C.F.R. §§ 76.57 and 76.64(f).

¹⁴47 C.F.R. § 0.283.